

CAPITAL FIBER, LLC

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FEB 27 2009

Annual 47 C.F.R. S: 64.2009(e) CPNI Certification

FCC Mail Room

EB Docket 06-36

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Ste TW-A325
Washington, DC 20554

Annual 64.2009(e) CPNI Certification for 2008

Date filed: February 20, 2009

Name of company covered by this certification: Capital Fiber, LLC

Form 499 Filer ID: 824990

Name of signatory: TIMOTHY J. COTTER

Title of signatory: CEO

I, TIMOTHY J. COTTER, certify that I am an officer of the company named above, and acting as an agent of the company, that I have personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the Commission's CPNI rules. See 47 C.F.R. S: 64.2001 et seq.

Attached to this certification is an accompanying statement explaining how the company's procedures ensure that the company is in compliance with the requirements set forth in section 64.2001 et seq. of the Commission's rules.

The company has not taken any actions (proceedings instituted or petitions filed by a company at either state commissions, the court system, or at the Commission against data brokers) against data brokers in the past year. Companies must report on any information that they have with respect to the processes pretexters are using to attempt to access CPNI, and what steps companies are taking to protect CPNI. The steps the company is taking to protect CPNI are explained in the accompanying statement.

If affirmative: N/A

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The company has not received any customer complaints in the past year concerning the unauthorized release of CPNI (number of customer complaints a company has received related to unauthorized access to CPNI, or unauthorized disclosure of CPNI, broken down by category or complaint, e.g., instances of improper access by employees, instances of improper disclosure to individuals not authorized to receive the information, or instances of improper access to online information by individuals not authorized to view the information).

If affirmative: N/A

Signed

A handwritten signature in black ink, appearing to read "T. J. LLC", is written over a horizontal line.

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Statement Regarding the Customer Proprietary Network Information (CPNI) Procedures of Capital Fiber, LLC

This statement explains how the procedures of Capital Fiber, LLC. ("Cap Fiber") ensure that the company is in compliance with the requirements set forth in section 64.2001 *et seq.* of the Commission's rules, 47 C.F.R. § 64.2001 *et seq.*

USE OF CPNI – SECTION 64.2005

- Cap Fiber does not use, disclose or permit access to CPNI for the purpose of marketing the products or services of itself, its affiliates or any third parties. As such, Cap Fiber does not solicit the approval of customers to use CPNI.
- Cap Fiber does not use, disclose or permit access to CPNI to identify or track customers that call competing service providers.

APPROVAL REQUIRED FOR USE OF CPNI – SECTION 64.2007

- Cap Fiber does not use, disclose or permit access to CPNI for the purpose of marketing the products or services of itself, its affiliates or any third parties, or for any purpose that would require Cap Fiber to solicit customer approval before doing so. As such, Cap Fiber does not solicit the approval of customers for use of CPNI.
- If Cap Fiber subsequently chooses to take any action for which customer approval is required, the company will implement policies and practices for seeking opt-out or opt-in approval from its customers in accordance with section 64.2001 *et seq.* of the Commission's rules, 47 C.F.R. § 64.2001 *et seq.*, and obtain approval from its customers pursuant to these policies and practices before taking such action.

NOTICE REQUIRED FOR USE OF CPNI – SECTION 64.2008

- Cap Fiber does not solicit the approval of customers for use of CPNI, because the company does not use, disclose or permit access to CPNI for any purpose that would require the company to solicit such approval.
- If Cap Fiber subsequently chooses to take any action for which the company must solicit the approval of its customers for the use CPNI, the company will provide notice to its customers pursuant to, and in accordance with, the requirements of section 65.2008 of the Commission's rules. 47 C.F.R. § 64.2008.

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SAFEGUARDS REQUIRED FOR USE OF CPNI – SECTION 64.2009

- Because the company does not use, disclose or permit access to CPNI for any purpose that would require the company to solicit the approval of customers for use of CPNI, Cap Fiber does not solicit the approval of such customers. If Cap Fiber subsequently chooses to take any action for which the company must solicit the approval of its customers for the use CPNI, the company will implement a system by which the status of the customer's CPNI approval can be clearly established prior to the use of CPNI.
- Cap Fiber has trained its personnel as to when they are and are not authorized to use CPNI, and the company has an established, express disciplinary process that can result in disciplinary actions up to, and including, termination of employment.
- Cap Fiber does not use, disclose or permit access to CPNI for the purpose of marketing the products or services of itself, its affiliates or any third parties, or for any purpose that would require Cap Fiber to solicit customer approval before doing so. If Cap Fiber subsequently chooses to use, disclose or permit access to CPNI for the purpose of marketing the products or services of itself, its affiliates or any third parties, the company will maintain a record of (1) its own and its affiliates' sales and marketing campaigns that use its customers' CPNI, and (2) all instances where CPNI was disclosed or provided to third parties, or where third parties were allowed access to CPNI. The record will include a description of each campaign, the specific CPNI that was used in the campaign, and what products and services were offered as part of the campaign. Cap Fiber will retain the record for a minimum of one year.
- Cap Fiber has established a supervisory review process regarding its compliance with section 64.2001 *et seq.* of the Commission's rules. 47 C.F.R. § 64.2001 *et seq.* for outbound marketing situations. Cap Fiber also maintains records of its compliance for a minimum period of one year. Cap Fiber sales and marketing personnel must obtain supervisory approval of any proposed outbound marketing request for customer approval.
- An officer of Cap Fiber signs and files with the Commission a compliance certificate on an annual basis. The officer states in the certification that he or she has personal knowledge that the company has established operating procedures that are adequate to ensure compliance with section 64.2001 *et seq.* of the Commission's rules. 47 C.F.R. § 64.2001 *et seq.* Cap Fiber also provides a statement accompanying the certificate explaining how its operating procedures ensure that it is in compliance with section 64.2001 *et seq.* of the Commission's rules. 47 C.F.R. § 64.2001 *et seq.* In addition, Cap Fiber includes an explanation of any actions taken against data brokers and a summary of all customer complaints received in the past year concerning the unauthorized release of CPNI. The company makes this filing annually with the Enforcement Bureau on or before March 1 in EB Docket No. 06-36 for data pertaining to the previous calendar year.

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- Cap Fiber does not solicit opt-out approval from its customers for use of CPNI. If Cap Fiber subsequently chooses to take any action for which the company must solicit the opt-out approval of its customers for the use CPNI, the company will provide written notice within five business days to the Commission of any instance where the opt-out mechanisms do not work properly to such a degree that customers' inability to opt-out is more than an anomaly. The notice will be made pursuant to, and in accordance with, section 64.2009(f) of the Commission's rules, 47 C.F.R. § 64.2009(f).

SAFEGUARDS ON THE DISCLOSURE OF CPNI – SECTION 64.2010

- Cap Fiber has implemented reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI.
- Cap Fiber does not disclose call detail information over the telephone during customer-initiated telephone contact.
- Cap Fiber does not provide online access to CPNI.
- Cap Fiber does not disclose CPNI at its office locations.
- Cap Fiber does not establish passwords for its customers. If Cap Fiber subsequently chooses to establish passwords for its customers, it will do so in accordance with the requirements of section 64.2010 of the Commission's rules, 47 C.F.R. § 64.2010.
- Cap Fiber notifies customers immediately whenever an address of record is created or changed. The notification is made through a carrier-originated voicemail to the telephone number of record. The notification does not reveal the changed information, and it is not sent to the new account information.
- Cap Fiber does not bind itself contractually to authentication regimes other than those described in section 64.2010 of the Commission's rules, 47 C.F.R. § 64.2010, for services the company provides to business customers that have both a dedicated account representative.

NOTIFICATION OF CPNI SECURITY BREACHES – SECTION 64.2011

- Cap Fiber will notify law enforcement of a breach of its customers' CPNI as provided in section 64.2011 of the Commission's rules, 47 C.F.R. § 64.2011.
- Cap Fiber will not notify its customers or disclose the breach publicly, whether voluntarily or under state or local law or these rules, until the company has completed the process of notifying law enforcement pursuant to paragraph (b) of section 64.2011 of the Commission's rules, 47 C.F.R. § 64.2011(b).

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- After Cap Fiber has completed the process of notifying law enforcement pursuant to paragraph (b) of section 64.2011 of the Commission's rules, 47 C.F.R. § 64.2011(b), it will notify its customers of a breach of those customers' CPNI.
- Cap Fiber will maintain a record of any breaches discovered, notifications made to the USSS and the FBI pursuant to paragraph (b) of section 64.2011 of the Commission's rules, 47 C.F.R. § 64.2011(b), and notifications made to customers. The record will include, if available, dates of discovery and notification, a detailed description of the CPNI that was the subject of the breach, and the circumstances of the breach. Cap Fiber will retain the record for a minimum of 2 years.